

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BILLY RAY CARTER,

Plaintiff,

v.

ED FOULK, et al.,

Defendants.

No. C 08-02795 SBA (PR)

**ORDER DIRECTING PAYMENT OF
FILING FEE OR FILING OF IN FORMA
PAUPERIS APPLICATION**

Plaintiff, a state prisoner, filed this pro se civil rights action under 42 U.S.C. § 1983. On that same date, the Clerk of the Court sent Plaintiff a notice directing him to pay the filing fee or to file a completed in forma pauperis (IFP) application. The Court notes that Plaintiff's address has changed since the Clerk sent the notice. To date, Plaintiff has not paid the requisite \$350.00 filing fee or filed an application for leave to proceed IFP.

Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of fees or security if he submits an affidavit that he is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). If the plaintiff is a prisoner who alleges that he is unable to pay the full filing fee at the time of filing, he must submit: (1) an affidavit that includes a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement for the prisoner for the six-month period immediately preceding the filing of the action, obtained from the appropriate official of each prison at which the prisoner is or was confined. See id. § 1915(a)(1), (2). If the court determines that the plaintiff is unable to pay the full filing fee at the time of filing, the plaintiff will

1 be granted leave to proceed IFP. This means that the filing fee must be paid by way of an
2 installment plan, according to which the court first will assess and collect a partial filing fee from the
3 prisoner, and then the prisoner will be required to make monthly payments of twenty percent of the
4 preceding month's income credited to the prisoner's account until the full \$350.00 filing fee is paid.
5 Id. § 1915(b)(1). The agency having custody of the prisoner is responsible for forwarding to the
6 court payments from the prisoner's account each time the amount in the account exceeds ten dollars.
7 See id.

8 Therefore, before the Court will proceed to review the complaint Plaintiff is hereby
9 ORDERED to pay the requisite \$350.00 filing fee in this action no later than thirty (30) days from
10 the date of this Order. He shall include with his payment a clear indication that it is for the above-
11 referenced case number, C 08-02795 CW (PR). In the event that Plaintiff is unable to pay the filing
12 fee, he shall submit an IFP application, trust account statement and certificate of funds no later than
13 thirty (30) days from the date of this Order.

14 Failure to pay the filing fee or file the requisite documents within the thirty-day deadline
15 shall result in dismissal of this action.

16 The Clerk of the Court shall send Plaintiff a blank prisoner IFP application form along with
17 his copy of this Order.

18 IT IS SO ORDERED.

19 DATED: 7/17/08


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 BILLY CARTER,

5 Plaintiff,

6 v.

7 ED FOULK et al,

8 Defendant.

Case Number: CV08-02795 SBA

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
10 Court, Northern District of California.

11 That on July 17, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

15 Billy Ray Carter NA 206839-3
16 Napa State Hospital
2100 Napa Valley Highway
Napa, CA 94558

17 Dated: July 17, 2008

18 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk

United States District Court
For the Northern District of California